

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	16-00110-01-CR-W-DGK
JAMES E. EVERETT, JR.,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on March 15, 2017. Defendant James Everett appeared in person and with Assistant Federal Public Defender Marc Ermine. The United States of America appeared by Assistant United States Attorneys Jeffrey McCarther and Courtney Pratten.

I. BACKGROUND

On November 15, 2016, a superseding indictment was returned charging defendant with one count of threatening a federal law enforcement officer, in violation of 18 U.S.C. §§ 115(a)(1)(B) and (b)(4); one count of possessing a firearm after having been convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2); and one misdemeanor count of possessing a controlled substance, in violation of 21 U.S.C. § 844(a).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. McCarther announced that he and Courtney Pratten will be the trial counsel for the government. The case agent to be seated at counsel table is Special Agent Travis Vas.

Mr. Ermine announced that he will be the trial counsel for defendant James Everett.

III. OUTSTANDING MOTIONS

The following motions are pending for ruling by the district judge:

1. Motion to exclude Rule 404(b) evidence, filed by defendant on December 1, 2016 (document number 34)
2. Motion to suppress statement, filed by defendant on December 1, 2016 (document number 35) (Report and Recommendation filed on March 3, 2017 (document number 62))
3. Supplemental motion to suppress, filed by defendant on January 11, 2017 (document number 46) (Report and Recommendation filed on March 3, 2017 (document number 62))

IV. TRIAL WITNESSES

Mr. McCarther announced that the government intends to call 8 witnesses without stipulations or 7 witnesses with stipulations during the trial.

Mr. Ermine announced that defendant James Everett intends to call no witnesses during the trial. The defendant will testify.

V. TRIAL EXHIBITS

Mr. McCarther announced that the government will offer approximately 21 exhibits in evidence during the trial.

Mr. Ermine announced that defendant James Everett will offer no exhibits in evidence during the trial.

VI. *RULE 404(b) EVIDENCE*

Mr. McCarther announced that the government will offer 404(b) or res gestae evidence during the trial.

Mr. Ermine announced that defendant James Everett will not offer 404(b) or res gestae evidence during the trial.

VII. *DEFENSES*

Mr. Ermine announced that defendant James Everett will rely on the defenses of general denial and intoxication.

VIII. *POSSIBLE DISPOSITION*

Mr. Ermine stated this case is definitely for trial. Mr. McCarther stated the government has proposed a plea agreement to defendant James Everett.

IX. *STIPULATIONS*

Stipulations are likely as to prior felony conviction.

X. *TRIAL TIME*

Counsel were in agreement that this case will take 2 days to try.

XI. *EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS*

The U. S. Magistrate Judge ordered:

That counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by March 15, 2017;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, March 22, 2017;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, March 22, 2017. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

That each party file all signed stipulations by or before noon, Wednesday, March 22, 2017;

That seven days before the trial date as reflected in the forthcoming trial letter, if there is not a scheduled change-of-plea hearing, the parties shall make available for the opposing party to inspect, copy or photograph (1) all premarked trial exhibits, (2) any written statements that will be used at trial, and (3) Rule 404(b) and res gestae evidence to be offered at trial.

XII. UNUSUAL QUESTIONS OF LAW

Motions in limine on the following issues will probably be filed by the government: intoxication, plaintiff's prior statements; and by the defendant: substance of phone calls.

There are no unusual questions of law.

XIII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on March 27, 2017.

The parties request the first week of the trial docket.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
March 15, 2017